

☐ Individual appearing without attorney  
☒ Attorney for: Wesley H. Avery, Chapter 7 Trustee

## NOTICE OF SALE OF ESTATE PROPERTY

**Location:** U.S. Bankruptcy Court, Roybal Fed. Bldg., 255 E. Temple Street, Courtroom 1539, Los Angeles, CA 90012

**Last date to file objections: 01/31/2018**

VACANT LAND LOCATED AT KONA DR., OCEAN VIEW, HI, 96737, BEARING PARCEL ID # 3-9-2-117-041-0000-000 IN THE COUNTY OF HAWAII. STATE OF HAWAII.

SEE NOTICE OF MOTION ATTACHED HERETO. YOU MAY ALSO CONTACT THE TRUSTEE'S COUNSEL FOR COPY OF MOTION AT THE PHONE NUMBER, EMAIL, AND/OR ADDRESS ABOVE.

F 6004-2.NOTICE.SALE

**Overbid procedure (if any):**

SEE NOTICE OF MOTION ATTACHED HERETO FOR EXACT OVERBID PROCEDURES

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

Date: February 14, 2018

Time: 10:00 a.m.

Ctrm: 1539

U.S. Bankruptcy Court, Roybal Federal Building

255 E. Temple Street

Los Angeles, CA 90012

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Karen E. Ingraham

South Hawaii Realty, LLC

Ocean View Town Center

525 Lotus Blossom Lane, #5

P.O. Box 377303 [For Mailing]

Ocean View, HI 96737

Phone: (808) 929-8484 Fax: (888) 750-3007

Or you may contact counsel for Chapter 7 Trustee Wesley H. Avery as set forth in the upper left hand corner of the first page of this document.

Date: 01/18/2018

Joseph E. Caceres, Esq. (SBN 169164)  
Charles Shamash, Esq. (SBN 178110)  
CACERES & SHAMASH, LLP  
8200 Wilshire Boulevard, Suite 400  
Beverly Hills, California 90211  
Telephone: (310) 205-3400  
Facsimile: (310) 878-8308  
Email: jec@locs.com

General Counsel for Wesley H. Avery,  
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re

THOMAS JOHN BISHOP,

) Case No. 2:15-bk-20999-BB

) Chapter 7

) **NOTICE OF HEARING ON:**  
) **CHAPTER 7 TRUSTEE'S MOTION FOR**  
) **ORDER AUTHORIZING SALE OF REAL**  
) **PROPERTY, FREE AND CLEAR OF LIENS,**  
) **CLAIMS, AND INTERESTS, SUBJECT TO**  
) **OVERBID**

) *[Re Vacant Land Located at:*  
) *Kona Dr., Ocean View, HI, 96737, bearing*  
) *Parcel ID # 3-9-2-117-041-0000-000 in the*  
) *County of Hawaii, State of Hawaii ]*

) Date: February 14, 2018  
) Time: 10:00 a.m.  
) Ctrm: 1539  
) 255 E. Temple Street  
) Los Angeles, CA 90012

Debtor(s).

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1 **TO THE HONORABLE SHERI BLUEBOND, UNITED STATES BANKRUPTCY JUDGE,**  
2 **THE UNITED STATES TRUSTEE, AND ALL CREDITORS AND INTERESTED**  
3 **PARTIES:**

4 **PLEASE TAKE NOTICE** that on the above date and time and in the indicated  
5 courtroom, a hearing will take place on the Motion of Wesley H. Avery, Chapter 7 Trustee  
6 (“Trustee”) for the bankruptcy estate of Thomas John Bishop (“Debtor”), for Order Authorizing  
7 Sale of Real Property, Free and Clear of Liens, Claims & Interests, Subject to Overbid, pursuant  
8 to 11 U.S.C. § 363(b) and (f) (the “Sale Motion”). Based on Trustee’s sound business judgment,  
9 Trustee believes the sale of the Property as set forth in the Sale Motion and herein is in the best  
10 interests of the Estate.

11 **PLEASE TAKE FURTHER NOTICE** that through the Sale Motion, Trustee seeks an  
12 order approving the sale of the Estate’s right, title, and interest in the vacant land located at *Kona*  
13 *Dr., Ocean View, HI, 96737, bearing Parcel ID # 3-9-2-117- 041-0000-000 in the County of*  
14 *Hawaii, State of Hawaii*, subject to overbid, on the terms and conditions specified in the accepted  
15 Hawaii Association of Realtors Purchase Contract dated 12/26/17 and related documents,  
16 including Counter Offer and Trustee’s Addendum to the Purchase Contract (collectively, the  
17 “Hawaii Purchase Agreement”), attached to the Sale Motion as Exhibit 3 thereto, and  
18 incorporated herein by reference, to Randy Ruis (“Ruis” or “Buyer”), for \$7,000.00 cash (the  
19 “Sale Price”), or to any person or entity that appears at the hearing on the Sale Motion and  
20 submits a higher acceptable bid in accordance with Trustee’s proposed overbid procedures, as set  
21 forth in the Sale Motion and reproduced below.

22 **PLEASE TAKE FURTHER NOTICE** that, as part of the Sale Motion, Trustee seeks an  
23 order approving the sale free and clear of all liens, claims, and interests. The Property is being  
24 sold on all-cash and “as is, where is” basis, without any warranties, disclosures, representations,  
25 recourse, repairs, or contingencies of any kind. Further, Trustee seeks an order (1) that the  
26 Property is property of the Bankruptcy Estate; (2) approving the proposed overbid procedures in  
27 conjunction with approval of the sale; (3) approving the sale of the Property to Buyer Ruis or to  
28 the highest qualified overbidder, free and clear of liens, claims, and interests, with the proceeds

1 attaching to any asserted liens to the same extent, validity, and priority as they existed prior to the  
2 close of escrow, pursuant to the procedures set forth in the Sale Motion; (4) approving the  
3 payment through escrow of any property taxes that may be owing; any lien that pops up that  
4 Trustee deems valid and payable through escrow (although none expected); ordinary and  
5 reasonable costs such as, but not necessarily limited to, prorated taxes, title fees, escrow fees,  
6 broker commissions of 10%, and other ordinary closing costs as per usual procedures; (5)  
7 authorizing and directing escrow to pay all net proceeds of the sale after payment of the foregoing  
8 to Trustee upon close of escrow; (6) that pending Trustee's review of any unexpected lien, claim,  
9 or interest that may be asserted, up to all net proceeds of the sale after payment of ordinary and  
10 reasonable costs shall be paid over to him as Trustee, to be held by him for the benefit of the  
11 Estate pending further Court order, with liens to attach to the proceeds of sale to the same extent,  
12 validity, and priority with which they attached to the Property, as adequate protection under 11  
13 U.S.C. § 363(e); and to effectuate this procedure, Trustee is authorized to instruct escrow to pay  
14 any undisputed amounts of said liens, claims, or interests to the respective claimants, with the  
15 disputed amounts paid over to Trustee, to be reserved pending further Court order or agreement  
16 with the affected lienholder(s), if any; (7) authorizing and directing Trustee and Buyer or a  
17 qualified successful overbidder to execute any and all documents or take any action necessary to  
18 transfer the Property from the estate to Buyer (or to any qualified successful overbidder); (8)  
19 finding that Buyer or a qualified successful overbidder is a good-faith purchaser; (9) that the  
20 automatic 14-day stay of Fed.R. Bankr. Proc. 6004(h) is waived; (10) retaining jurisdiction to (i)  
21 enforce and implement the terms and provisions of the Hawaii Purchase Agreement, all  
22 addendums and amendments thereto, any waivers and consents thereunder, and any other  
23 supplemental documents or agreements executed in connection therewith or the Escrow; (ii)  
24 compel delivery and payment of the consideration provided for under the Hawaii Purchase  
25 Agreement; and (iii) resolve any disputes, controversies or claims arising out of or relating to the  
26 Hawaii Purchase Agreement; and (11) granting such other and further relief as the Court deems  
27 just and proper.

28 **PLEASE TAKE FURTHER NOTICE** that the proposed sale to Buyer is subject to

approval of the United States Bankruptcy Court and subject to overbids of any qualified third party. Trustee proposes that the following overbid procedures, which are subject to Court approval, be used at the hearing on the Motion (the "Sale Hearing") for considering overbids:

**Proposed Overbid Procedures/Competing Offers**

A. Qualification to Overbid. Each potential bidder (other than Buyer Ruis), in order to qualify as a bidder at the Sale Hearing, shall -

- i. at least three (3) days prior to the Sale Hearing, present to Trustee's Broker a cashier's check in the minimum amount of one thousand dollars (\$1,000.00) (the same amount deposited by Ruis) (the "Earnest Money Deposit") made payable to Wesley H. Avery, As Trustee for the Bankruptcy Estate of Thomas John Bishop. Trustee shall return the Earnest Money Deposit if he accepts the bid of another bidder;
- ii. at least three (3) days prior to the Sale Hearing, present to Trustee's Broker a completed and executed written offer to purchase signed by the bidder that contains terms and conditions that are, in the Trustee's business judgment, substantially similar or superior to the terms and conditions specifically contained in the Hawaii Purchase Agreement and attached addenda, collectively attached to the Sale Motion as Exhibit 3;
- iii. at least three (3) days prior to the Sale Hearing, offer proof to Trustee's Broker that the bidder has the financial ability to pay the balance of any bid made by such bidder, such proof to be deemed acceptable or unacceptable by Trustee in his sole discretion, subject to approval by the Court; and
- iv. attend the Sale Hearing; and

b. Initial and Subsequent Overbids. The initial overbid shall be a total of at least five hundred dollars (\$500.00) more than the Sale Price, and all additional/subsequent overbids must be made in minimum increments of two hundred and fifty dollars (\$250.00); and

c. Winning Bidder/Close of Escrow/Liquidated Damages. Whether the Buyer or an overbidder is declared the winning bidder at the Sale Hearing (the "Winning Bidder"), such

1 Winning Bidder shall close escrow no later than thirty (30) days after the order granting the Sale  
2 Motion is entered by the bankruptcy court, or in a manner that Trustee deems more favorable to  
3 the Estate in his sole and absolute discretion. If the Winning Bidder, whether original Buyer or a  
4 successful overbidder, fails to close escrow within the applicable period above due to such  
5 Winning Bidder's default, Trustee may cancel the purchase contract and escrow via written  
6 instructions to escrow. In such a case the Winning Bidder shall forfeit its Earnest Money Deposit,  
7 and escrow shall remit said Earnest Money Deposit to the Trustee upon demand by the Trustee.  
8 However, in his sole and absolute discretion Trustee (a) may, but is not required to, extend the  
9 escrow closing period by written instructions to escrow, so as to allow the sale to the Winning  
10 Bidder to close, and/or (b) may instruct escrow to return the Earnest Money Deposit to the payor.

11 Trustee also requests approval of an alternate bidder as a backup bidder should the  
12 Winning Bidder (whether original Buyer Ruis or an overbidder) fail to close the sale escrow  
13 within the applicable period above.

14 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-  
15 1(f), if you wish to oppose the Sale Motion, you must both file a written response with the  
16 Bankruptcy Court and serve a copy of it upon the Trustee and Trustee's counsel at the addresses  
17 set forth in the upper left hand corner of the face page of this document and in the attached proof  
18 of service, no less than fourteen (14) days prior to the above hearing date. Pursuant to Local  
19 Bankruptcy Rule 9013-1(h), the failure to timely file and serve an opposition to the Sale Motion  
20 may be deemed by the Court to be consent to the relief requested in the Sale Motion. A copy of  
21 the Sale Motion may be viewed at the Bankruptcy Clerk's office located at 255 E. Temple Street,  
22 9<sup>th</sup> Floor, Los Angeles, CA 90012. A copy may also be obtained by contacting the undersigned as  
23 indicated on the top left hand corner of the face page of this notice.

24 DATED: January 18, 2018

CACERES & SHAMASH, LLP

25 By: /s/ Joseph E. Caceres  
26 Joseph E. Caceres, Esq.  
27 Charles Shamash, Esq.  
28 General Counsel for Wesley H. Avery,  
Chapter 7 Trustee

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
8200 Wilshire Blvd., Suite 400, Beverly Hills, CA 90211

The foregoing documents described as **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On 01/18/18 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Wesley H Avery (TR) wes@averytrustee.com,  
C117@ecfcbis.com;lucy@averytrustee.com;alexandria@averytrustee.com
- Joseph Caceres jec@locs.com, generalbox@locs.com
- James Hogan customer.service.bk@americredit.com
- Kenneth G Lau kenneth.g.lau@usdoj.gov
- Yvonne Ramirez-Browning BANKRUPTCYCLS@wellsfargo.com
- Charles Shamash cs@locs.com, generalbox@locs.com
- Michael R Totaro Ocbkatty@aol.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Mandy D Youngblood

☐ Service information continued on attached page

II. **SERVED BY UNITED STATES MAIL:** On (date) 01/18/18, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Bankruptcy Judge:**

The Honorable Sheri Bluebond, U.S. Bankruptcy Judge  
U.S. Bankruptcy Court, Roybal Federal Building  
255 E. Temple Street, Suite 1534  
Los Angeles, CA 90012

*\*All on attached list served via U.S. mail with the exception of anyone on NEF list above\**

☒ Service information continued on attached page

III. **SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_ served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

01/18/18  
Date

Joseph E. Caceres  
Type Name

/s/ Joseph E. Caceres  
Signature



Label Matrix for local noticing  
0973-2

Case 2:15-bk-20999-BB  
Central District of California  
Los Angeles  
Tue Jan 16 15:40:02 PST 2018

Los Angeles Division  
255 East Temple Street,  
Los Angeles, CA 90012-3332

Americredit Financial Services, Inc. dba GM  
P O Box 183853  
Arlington, TX 76096-3853

American Express  
P.O. Box 981537  
El Paso, TX 79998-1537

Wells Fargo Bank, National Association  
Office of the General Counsel  
Wells Fargo & Company  
Yvonne Ramirez-Browning  
21680 Gateway Center Dr, Ste 280  
Diamond Bar, CA 91765-2456  
  
American Express Bank, FSB  
c o Becket and Lee LLP  
POB 3001  
Malvern, PA 19355-0701

Capital One Bank (USA), N.A.  
PO Box 71083  
Charlotte, NC 28272-1083

Capital One Bank, NA  
P.O. Box 30281  
Salt Lake City, UT 84130-0281

Citibank/ Shell, NA  
P.O. Box 6241  
Sioux Falls, SD 57117-6241

(p)DISCOVER FINANCIAL SERVICES LLC  
PO BOX 3025  
NEW ALBANY OH 43054-3025

Equiant Financial Services  
5401 N. Fima Rd. #150  
Scottsdale, AZ 85250

General Motors Acceptance  
PO Box 183834  
Arlington TX 76096-3834

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

J.P. Morgan Chase, NA  
P.O. Box 15298  
Wilmington, DE 19850-5298

Jason Rund  
840 Apollo St. #351  
El Segundo, CA 90245-4762

Kohls/Capone  
P.O. Box 3115  
Milwaukee, WI 53201-3115

LOS ANGELES COUNTY TREASURER AND TAX COLLECT  
PO BOX 54110  
LOS ANGELES CA 90054-0110

Magnum Plumbing, Inc.  
16654 Soledad Canyon Rd. #389  
Canyon Country, CA 91387-3217

Meridian Financial  
1636 Hendersonville Rd no. 135  
Asheville NC 28803-3057

Meridian Financial  
1636 Hendersonville Rd. #135  
Asheville, NC 28803-3057

Office of the United States Trustee  
915 Wilshire Blvd. 18th Fl  
Los Angeles, CA 90017-3409

Preferred Phone  
16830 Ventura Blve. #350  
Encino, CA 91436-1716

Ricardo Valle  
1237 Hockney Ct.  
Palmdale, CA 93550-6826

Thomas John Bishop  
38316 Fuschia Ln  
Palmdale, CA 93552-2005

Totaro & Shanahan  
P.O. Box 789  
Pacific Palisades, CA 90272-0789

United States Trustee (LA)  
915 Wilshire Blvd, Suite 1850  
Los Angeles, CA 90017-3560

Wells Fargo Bank, NA  
Office of General Counsel  
21680 Gateway Center Dr. #280  
Diamond Bar, CA 91765-2456

Wells Fargo Bank, NA  
P.O. Box 14517  
Des Moines, IA 50306-3517

Wells Fargo Bank, National Association  
P.O. Box 6148  
El Monte, CA 91734-2148

Michael R Totaro  
Totaro & Shanahan  
POB 789  
Pacific Palisades, CA 90272-0789

Wesley H Avery (TR)

758 E. Colorado Blvd., Suite 210

Pasadena, CA 91101-5407

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Discover Financial Services, LLC  
P.O. Box 15316  
Wilmington, DE 19850

Internal Revenue Service  
300 North Los Angeles Street M/s 5022  
Los Angeles CA 90012

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Caceres & Shamash LLP

(u)Coldwell Banker Commercial, a Hartwig Comp

(u)Courtesy NEF

(u)South Hawaii Realty LLC

(d)AmeriCredit Financial Services, Inc. dba G  
P O Box 183853  
Arlington, TX 76096-3853

(d)Ricardo Valle  
1237 Hockney Ct.  
Palmdale, CA 93550-6826

(d)Thomas John Bishop  
38316 Fuschia LN  
Palmdale, CA 93552-2005

End of Label Matrix  
Mailable recipients 30  
Bypassed recipients 7  
Total 37